enforce the Building By-laws. Machinery for this is provided by section 144(10) of the Municipal Ordinance. Instead, however, of proceeding under this section they purported to proceed by way of the Nuisance Sections of the Ordinance, describing what was really a breach of the Building By-laws as a nuisance. The order itself shows that the two procedures have been confused. The first paragraph of the order reads as follows :—

"Whereas the said Lim Heng Soon owner of the said premises within the meaning of the Municipal Ordinance, Cap. 133 has this 25th day of April, 1950 appeared before me to answer the matter of a complaint made by N. C. Scully, Sanitary Inspector, Bukit Mertajam, on behalf of the Chairman, Rural Board, Province Wellesley, that a Rural Board Nuisance Notice under s. 246 of the Municipal Ordinance, Cap. 133 was served on Lim Heng Soon, the owner of premises unnumbered, Tokong Lane, Bukit Mertajam on 8.12.49 to reconstruct the said building so as to comply with the Rural Board. Province Wellesley Building By-laws."

The works called for by the order are as follows :—

"1. Width of the building should be 20 feet and depth 80 feet.
2. Walls should be of bricks to a height of 10 feet from floor to wall plate.
3. Roof should be of tiles.
4. Floor should be of concrete rendered smooth in cement.
5. Open space should equal to one half the built-on area exclusive of party and external walls.
6. Window space should equal 1/10th of the floor area in all living rooms and opening directly into the external air.
7. Living rooms should be at least 80 sq. feet in area.
8. Kitchen should be separate from the main building, having smooth cement floor, brick walls and tiled jack-roof.
9. Drainage for the entire building should be through 6 inch cement drain all round and having its outlet leading into the public road drain.
10. Latrine should be of Rural Board Approved Type and provided with a 6 inch cement drain from the bucket chamber to the drain of the main building.
11. A piped water supply should be provided.
12. Land owner's permission in writing should be obtained prior to carrying out of the above-mentioned works."

I find it very difficult to see that any of the works thus called for are in fact designed to abate a nuisance. In the evidence given before the learned Magistrate on the 20th February, 1951 the following passage appears in the evidence of the 2nd Prosecution Witness :—

"The nuisance is that these buildings are not provided with proper kitchens, etc. The nuisance is that these are dwelling houses."

In my opinion neither of these facts can by themselves be said to constitute a nuisance. Under the provisions of section 246 of the Municipal Ordinance the works which the Authority may call for are to execute such works and do such things as are necessary for the purpose of abating the nuisance, and the Authority has no power to call for any works which are not necessary for that specific purpose. In the same way, an order under section 247(3) can only call upon the defendant to do what is necessary to abate the nuisance. It follows that the so-called Abatement of Nuisance Orders in this case were Orders which, in the circumstances of the case, the learned Magistrate had no power to make and they must therefore be set aside.

Order accordingly.

Re SIN POH AMALGAMATED LTD. & ORS.

[O. C. J. (Murray-Aynsley C.J.) June 9, 1954]

[Singapore — Originating Motion Nos. 21, 22, 23, 24, 25 & 26 of 1954]

Contempt of Court — Publication by certain newspapers in reference to proceedings pending hearing — Whether such publications constitute contempt — Gravity — Trial by jury.

An application on behalf of the Attorney-General for leave to issue Writs of Attachment for contempt was made against six newspapers and their respective editors. It was alleged that the newspapers concerned had published certain matters with regard to pending proceedings which tended to prejudice the trial of the 48 persons charged.

Held: (1) any comment of a tendencious character which judges in advance the issues to be decided in proceedings which are pending, may be contempt of Court; (2) the gravity of the offence is less where the pending trial is before a judge or magistrate than where the pending trial is a trial by jury but nevertheless the matter should not be regarded lightly.

APPLICATION to issue Writs of Attachment.

E. P. Shanks (Senior Crown Counsel) for the Attorney-General.

Dr. C. H. Withers-Payne for 1st, 2nd and 4th respondents.

M. B. Brash for 3rd respondents.

A. P. Rajah for 5th respondents.

Philip Hoalim for the 6th respondents.

Cur. Adv. Vult.

Murray-Aynsley, C.J. : — On May 13th certain individuals collided with the Police. As a result of this 48 persons have been charged under section 186 of the Penal Code and these cases will in due course be dealt with in one of the Police Courts. It is alleged that certain newspapers have, by reason of certain matters published by them, been guilty of contempt of Court in reference to those proceedings.

Before I consider these cases in detail I think it desirable to make some observations of a general character. Contempt of Court can be committed with

regard to all pending proceedings. This continues until they are finally disposed of. Any comment of a tendencious character, that is to say, comment which judges in advance the issues to be decided in such proceedings, may be contempt of Court. This applies to proceedings before all Courts, whether of first instance or appellate.

Naturally the gravity of the contempt varies greatly. Where there is going to be a trial by jury any comment is a very serious matter indeed. Where there is a trial by jury it is desirable that jurors should start hearing a case with minds free from prejudice and they should know nothing about a case except what they hear in Court. If they have been reading in newspapers the views of the editor and of people who have thought fit to express their views in letters to the editor it is difficult for them to separate what they hear in Court from what they have read outside. Where there is a trial before a Judge or Magistrate the matter is not so serious but it is still not to be regarded lightly. Professional training does enable lawyers to form an opinion of the effect of evidence regardless of what they know otherwise. But it is not easy and the mind may always be influenced unconsciously.

But besides what may be called the direct effect of comment of this kind, there are other effects which are also prejudicial to the administration of justice. Propaganda in favour of one side or the other may affect public opinion and excite popular prejudice. If ultimately the result of the proceedings is not in accordance with the prejudice so excited the result is likely to cause the public to lose confidence in the Courts. The English cases do not deal with this aspect of the matter for the simple reason that there have not been in modern times any instances of this sort of propaganda.

Leaving these more general observations and coming to the present cases, it should be observed that the Court is only concerned with the publications in so far as they tend to prejudice the criminal proceedings against these 48 persons. Possibly some of these publications might have been the subject of proceedings for sedition. With that aspect we are not concerned. We are not concerned with the question of whether the Police should have dispersed this assembly or whether they used excessive force in doing so. This is a matter on which comment may be made, provided of course that care is taken to separate this question from that of the charge of obstructing the Police.

Further, freedom to comment is not acquired by writing in a language other than English. It is impossible to say in advance which Magistrate will try any particular case nor does one know what may be his linguistic attainments or his taste in newspapers. In any event it is not only the effect on the tribunal that is to be considered.

I shall now deal with the cases in particular.

O.M. 21/54 — Sin Chew Jit Poh: This article deals mostly with other matters. It does appear to state that the persons charged are not guilty of that particular offence. This may be the result of confused thinking. I consider that the article comes on the wrong side of the line. I do not consider that it is necessary to inflict any penalty.

O.M. 22/54 — Singapore Tiger Standard: Here there is an article and a series of letters addressed to the editor. There is a general failure to distinguish between criticism of the Police and justification of the accused. Here it is necessary to impose a penalty. As the criminal proceedings are not of a serious nature I think that it is sufficient to impose a fine of $50 on each of the three persons summoned.

O.M. 23/54 — Chung Shing Jit Pao: I do not think that there was any contempt here and no order will be made.

O.M. 24/54 — Utusan Melayu: This article contains matters which seem to be concerned with pending charges. It contains the sentence "they (the students) battled only when they were attacked by the Police." I take a serious view of this. There will be a fine of $150.

O.M. 25/54 — Nanyang Press Ltd.: The article contains the sentence "when the students were about to give an explanation to the assembly, the anti-riot squad wielding their batons had already charged on them like thunder." That is obviously wrong. The respondents did not attempt to justify and their attitude has since been correct. I think a fine of $50 on each of the person summoned is sufficient.

O.M. 26/54 — Sin Pao Tri-Weekly: This paper was sufficiently ill advised to publish a manifesto on behalf of those concerned in the disturbance. This manifesto appeared, among other things, to exculpate those charged. This is the most serious of the cases and the order is that the persons summoned will pay a fine of $100 each.

In O.M. 23/54 Attorney-General to pay costs. In others the respondents to pay costs of Attorney-General lower scale.

Order accordingly.

Solicitors for respondents 1, 2 and 4: *Drew & Napier;* for 3rd respondents: *Allen & Gledhill;* for 5th respondents: *Tan, Rajah & Cheah;* and for 6th respondents: *Philip Hoalim & Co.*

DEPUTY PUBLIC PROSECUTOR v. F. HILTON.

[A. Cr. J. (Murray-Aynsley C.J.) June 16, 1954]

[Singapore — Magistrate's Appeal No. 64 of 1954]

Road Traffic Ordinance, 1941, s. 32(b) — "Served on" — Meaning of — Criminal Procedure Code (Cap. 21), s. 42.

The respondent in this case was a serviceman and a notice of intended prosecution of a traffic offence had been sent by registered post to an officer of the R.A.F. Police. This notice was subsequently handed to the respondent personally by a corporal of the R.A.F. Police.